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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
MCIMETRO ACCESS TRANSMISSION
SERVICES, LLC, FOR APPROVAL OF AN
AMENDMENT FOR ELIMINATION OF UNE-P
AND IMPLEMENTATION OF BATCH HOT CUT
PROCESS AND QPP MASTER SERVICE
AGREEMENT.

DOCKET NO. T-01051B-04-0540
DOCKET NO. T-03574A-04-0540

PROCEDURAL ORDER

BY THE COMMISSION:

On July 28, 2004, MCImetro Access Transmission Services, LLC ("MCImetro") filed an application with the Arizona Corporation Commission ("Commission") seeking approval of a negotiated amendment to an Interconnection Agreement between MCImetro and Qwest Corporation ("Qwest")¹, for Elimination of UNE-P and Implementation of Batch Hot Cut Process and Discounts, and for approval of a QPP Master Service Agreement.

On August 6, 2004, Qwest filed a Motion to Dismiss Application for Review of Negotiated Commercial Agreement (with Alternative Request for Intervention). Qwest argues that the QPP Master Service Agreement ("QPP Agreement") is a "Commercial Agreement" that does not alter the terms of the existing Interconnection Agreement between Qwest and MCImetro and does not create any terms or conditions for services that Qwest must provide under Sections 251(b) and (c) of the Telecommunications Act. Qwest contends, therefore, that the QPP Agreement is beyond the scope of the Commission's jurisdiction and should be excluded from consideration in MCImetro's pending application.

Responsive briefs were filed regarding Qwest's Motion to Dismiss, and oral argument was conducted on the Motion. The parties also subsequently submitted Supplemental Authority in the form of decisions rendered in other jurisdictions on the legal issues involved in this matter.

¹ The underlying Interconnection Agreement between MCImetro and US WEST Communications, Inc., was approved by the Commission in Decision No. 60308 (July 31, 1997).

1 On June 28, 2005, a Recommended Order was issued denying the Motion to Dismiss and
2 asserting jurisdiction over the QPP Agreements.

3 Qwest filed Exceptions to the Recommended Order on July 7, 2005. In its Exceptions, Qwest
4 raises substantive legal arguments regarding recent rulings by the Minnesota Public Utilities
5 Commission and a federal district court in Montana to which no opposing party has had an
6 opportunity to respond.

7 On July 11, 2005, a Procedural Order was issued directing Qwest to serve a copy of its
8 Exceptions on each of the parties on the service list of the Recommended Order, if such parties were
9 not previously served. The Procedural Order also granted interested parties an opportunity to file a
10 response to Qwest's Exceptions by August 5, 2005, and for Qwest to file a reply to any such
11 responses by August 15, 2005.

12 On July 14, 2005, Qwest filed a Notice of Service of Qwest's Exceptions to Proposed Order
13 and Motion to Extend Time for Qwest Reply Brief. Qwest states that it has now served a copy of the
14 Exceptions on each of the parties on the Recommended Order's service list. Qwest also requests that
15 the date set for its reply be extended from August 15 to August 19, 2005 due to conflicts in the
16 schedule of Qwest's counsel. Qwest represents that counsel for Staff and MCI do not oppose the
17 requested extension.

18 IT IS THEREFORE ORDERED that Qwest's Motion to Extend Time shall be granted, and its
19 reply to the responses to Qwest's Exceptions shall therefore be filed by no later than August 19,
20 2005.

21 IT IS FURTHER ORDERED that in all other respects the July 11, 2005 Procedural Order
22 shall remain in full force and effect.

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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
2 or waive any portion of this Procedural Order by subsequent Procedural Order or by ruling at hearing.

3 DATED this 15th day of July, 2005.

4
5 

6 DWIGHT D. NODES
7 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered
9 this 15 day of July, 2005 to:

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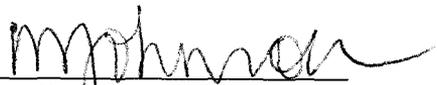
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25 By: 
26 Molly Johnson
27 Secretary to Dwight D. Nodes
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